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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: David S. Colvin   Serial No: 10/605,065

Filed: September 5, 2003   Examiner: Revak, Christopher A.

Group Art Unit: 2131   Confirmation No: 2064

Title: METHOD FOR DIGITAL RIGHTS MANAGEMENT INCLUDING
     USER/PUBLISHER CONNECTIVITY INTERFACE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants hereby request review of the final rejection mailed August 3, 2007.

No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets of no more
than 5 pages.

Reason(s) For Requesting Pre-Appeal Brief Review

Applicant's Claims 1-97 stand rejected under 35 USC §102(b) as being anticipated by Ananda (US 5,495,411). In Applicant's response to the first Office Action, Applicant identified elements of nearly every independent and dependent claim that were not disclosed in Ananda and requested reconsideration of the rejection.

In the final Office Action mailed August 3, 2007, the Examiner indicated that Applicant's arguments were considered but not deemed persuasive. However, the Examiner also stated that Applicant's arguments failed to comply with 37 CFR 111(b) because they amounted to a general allegation that the claims were patentable without specifically pointing out how the language of the claims distinguishes them from the references. Applicant respectfully disagrees.

In the response to the first Office action, Applicant details claim by claim in 11 pages of remarks/argument what element of each claim or related group of claims is not shown in the prior art relied upon by the Examiner. For example, in the response that the Examiner indicated did not comply with 37 CFR 111(b), Applicant stated:

> As per claims 2 and 3, Ananda does not disclose selective exchange of information that includes updates, upgrades, patches, marketing information, promotional information, etc. The passage relied upon by the Examiner relates to updating and monitoring functions of the central rental facility and not to the exchange of information with the user computer.

> As per claim 4, there is no disclosure of dynamically updating the authorized representative as claimed.

> As per claim 5, Ananda transfers the application software and header module to the user computer at the beginning of session, presumably with the alleged "identifier" that is detected to request exchange of information. The instructions to repeat authentication disclosed by Ananda are transferred with the application program and not in response to detecting an "identifier" as claimed.

> As per claim 9, it is unclear what the Examiner alleges anticipates Applicant's claimed "identifier". However, Ananda does not

disclose any feature that is embedded within a file of the software component.

As per claim 11, Ananda discloses encrypting the authorization verification message but does not disclose any "identifier" or encrypting the identifier. The authorization verification message can not function as such an identifier because it is not associated with the software prior to distribution and is not distributed with the software. Similarly, the header module and/or rental security manager is associated prior to distribution, but is not encrypted. As such, neither meets Applicant's claim limitations.

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As per claim 88, none of the features disclosed by Ananda is related to the filename of the software.

As per claim 92, Ananda does not disclose authorization information associate with the user device.

As per claim 93, Ananda does not generate an authentication code based on registration information associated with the user device and does not compare the authentication code with a previously generated authentication code to determine if the user device is authorized.

As per claim 94, Ananda does not determine if at least a portion of system information associated with the user device matches system information encoded within the authentication code associated with the software.

As per claim 95, Ananda does not disclose registration information that includes hardware-specific information. The registration information disclosed by Ananda is related to the user and stored in the central rental facility registration database, which is accessed via the user identification password.

As per claim 96, the representative entity of Ananda is located at the central rental facility. Ananda does not disclose an authorized representative entity installed on or in the user device.
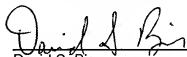
As also described in the previously filed response, Ananda '411 does not disclose software with an identifier that triggers an authentication and selective exchange of information as disclosed and claimed. The Examiner cites various passages from Ananda that relate to the central rental facility and the header software with its incorporated rental security manager 321 that generates authorization verification passwords. However, it is not clear from the rejection how these features are being applied to various elements of Applicant's claims. It appears from the rejection of various claims that the Examiner's interpretation is necessarily inconsistent in rejecting an independent claim and its corresponding dependent claims. For example, it appears the Examiner is interpreting the header module as the identifier associated with the software, but also as the authorized representative entity that detects the identifier associated with the software in rejecting claim 1. This interpretation appears to change in the rejection of dependent claims where the cited passages refer to the authorization verification password generated by the rental security manager, such that the Examiner is indicating that the authorization verification password is now the element that anticipates Applicant's claimed "identifier". Since each dependent claim incorporates all of the limitations of the claims from which it depends, the Examiner must consistently interpret a particular feature disclosed by Ananda throughout the related independent and dependent claims.

The Examiner is respectfully requested to clarify the elements of Ananda that anticipate each element of Applicant's claims rather that reciting the entire claim followed by a citation to multiple columns/lines in Ananda that purportedly anticipate all the elements of the claim to facilitate Applicant's understanding and analysis of the Examiner's position to provide relevant arguments and/or claim amendments as necessary. For example, Ananda discloses a user password that is associated with a registration database of user information, a header module that includes a rental security manager having modules to generate authorization verification passwords, perform encryption/decryption, terminate application execution, etc. The Examiner is respectfully requested to identify which of these elements is purported to anticipate Applicant's claimed identifier or plurality of identifiers, and which element anticipates the authorized representative entity that detects the identifier, and which element anticipates the remote authorized representative entity. Similarly, the Examiner is requested to identify which feature of Ananda anticipates Applicant's registration information associated with a user device, and how/where Ananda discloses

registration information associated with a particular device or group of devices as disclosed and claimed by Applicant.

While the Examiner has been very accommodating in conducting various telephonic interviews to discuss these issues in general, Applicant respectfully requests that the Examiner directly address Applicant's arguments and clarify the interpretation of Ananda with respect to each rejected claim and its elements so that Applicant can make an informed decision of how to best proceed to advance the prosecution of this application.

Respectfully submitted:

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